

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

PATRICIA AIKEN.

1

Plaintiff,

Case No. 3:21-cv-00180-MMD-CLB

ORDER

CHUBB GROUP OF INSURANCE COMPANIES, *et al.*,

Defendants.

I. SUMMARY

Pro se Plaintiff Patricia Aiken is attempting to sue Defendants Chubb Group of Insurance Companies, Michael Rettig, Sun-Maid Growers of California, and Costco Wholesale after she bit into something hard in a box of raisins purchased from a Costco in Bozeman, Montana and broke one of her teeth. (ECF No. 1-1.) Before the Court is the Report and Recommendation of United States Magistrate Judge Carla L. Baldwin, primarily recommending that the Court dismiss Plaintiff's proposed Complaint for improper venue and lack of personal jurisdiction over Defendants. (ECF No. 5 ("R&R" or "Recommendation").) Plaintiff filed an objection (ECF No. 8 ("Objection")), and unsuccessfully moved Judge Baldwin for reconsideration of the R&R (ECF Nos. 9, 10). Because the Court agrees with Judge Baldwin that venue is improper in this Court and personal jurisdiction over Defendants is lacking, finds Plaintiff's Objection largely unresponsive to Judge Baldwin's Recommendations, and as further explained below, the Court will accept and adopt the R&R in full, and dismiss this case.

II. BACKGROUND

The Court incorporates by reference Judge Baldwin's recitation of Plaintiff's

1 allegations in the Complaint provided in the R&R, which the Court adopts. (ECF No. 5 at
2 3-4.)

3 **III. LEGAL STANDARD**

4 This Court “may accept, reject, or modify, in whole or in part, the findings or
5 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party
6 timely objects to a magistrate judge’s report and recommendation, then the Court is
7 required to “make a de novo determination of those portions of the [report and
8 recommendation] to which objection is made.” *Id.* The Court’s review is thus de novo
9 because Plaintiff filed her Objection. (ECF No. 8.)

10 **IV. DISCUSSION**

11 In the R&R, Judge Baldwin first recommends granting Plaintiff’s application to
12 proceed *in forma pauperis* (“IFP”) because her review of Plaintiff’s application indicates
13 she cannot afford to pay the filing fee. (*Id.* at 2.) Judge Baldwin next explains that she is
14 conducting mandatory screening on Plaintiff’s Complaint because Plaintiff seeks to
15 proceed IFP. (*Id.* at 2-3.) Judge Baldwin then goes on to note that the events giving rise
16 to Plaintiff’s Complaint all occurred in Montana, and that no Defendants appear to be
17 citizens of Nevada. (*Id.* 3-4.) Based on this summary of Plaintiff’s allegations, Judge
18 Baldwin recommends the Court dismiss Plaintiff’s Complaint both because this Court is
19 an improper venue under 28 U.S.C. § 1391(b) and the Court appears to lack personal
20 jurisdiction over Defendants. (*Id.* at 4.)

21 The Court agrees with Judge Baldwin’s analysis, and finds Plaintiff’s Objection
22 unpersuasive because it is largely nonresponsive to Judge Baldwin’s analysis provided in
23 the R&R. For example, Plaintiff appears to argue that venue is proper in this district
24 because she was corresponding with her old dentist’s office in Las Vegas about the injury
25 to her tooth she sustained in Montana. (ECF No. 8 at 2-3.) But Plaintiff does not include
26 these allegations in her Complaint (ECF No. 1-1), so Judge Baldwin could not have
27 considered them in screening her Complaint, and her correspondence with a dentist office
28 in Las Vegas does not necessarily constitute a “substantial part of the events or omissions

1 giving rise to the claim" in any event. 28 U.S.C. § 1391(b). To the contrary, the Court
2 agrees with Judge Baldwin that a substantial part of the relevant events occurred in
3 Montana, because Plaintiff both allegedly purchased and was injured by the raisins there.
4 Plaintiff's argument that "[w]hat Costco Wholesale Plaintiff purchase the SunMaid product
5 at is immaterial[]]" is simply incorrect, as a matter of law. (ECF No. 8 at 3.) Moreover, none
6 of Plaintiff's arguments in her Objection speak to, or undermine, Judge Baldwin's
7 observation that the Court appears to lack personal jurisdiction over Defendants. (*Id.* at 2-
8 4.)

9 In sum, the Court will overrule Plaintiff's Objection, and accept and adopt the R&R
10 in full.

11 **V. CONCLUSION**

12 The Court notes that the parties made several arguments and cited to several cases
13 not discussed above. The Court has reviewed these arguments and cases and determines
14 that they do not warrant discussion as they do not affect the outcome of the issues before
15 the Court.

16 It is therefore ordered that Plaintiff's objection (ECF No. 8) to the Report and
17 Recommendation of U.S. Magistrate Judge Carla L. Baldwin is overruled. The Report and
18 Recommendation of U.S. Magistrate Judge Carla L. Baldwin (ECF No. 5) is accepted and
19 adopted in full, as provided herein.

20 It is further ordered that Plaintiff's application to proceed in forma pauperis (ECF
21 No. 1) is granted.

22 The Clerk of Court is directed to file Plaintiff's Complaint (ECF No. 1-1).

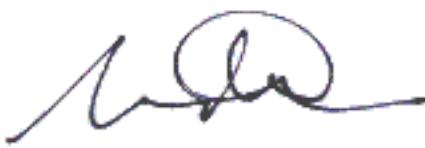
23 It is further ordered that Plaintiff's Complaint (ECF No. 1-1) is dismissed, in its
24 entirety, but without prejudice to the extent that Plaintiff can allege plausible claims for
25 relief in the correct court.

26 It is further ordered that Plaintiff's motion to transfer this case to Las Vegas (ECF
27 No. 4) is denied as moot.

28 The Clerk of Court is further directed to enter judgment accordingly and close this

1 case.

2 DATED THIS 18th Day of May 2021.

3
4
5 
6 MIRANDA M. DU
7 CHIEF UNITED STATES DISTRICT JUDGE
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28